

**Minutes  
URBAN COUNTY PLANNING COMMISSION  
SUBDIVISION ITEMS**

**September 9, 2010**

- I. CALL TO ORDER** - The meeting was called to order at 1:32 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Carolyn Richardson, Chair; Mike Cravens, Vice Chair; Lynn Roche-Phillips; Marie Copeland; Mike Owens; William Wilson; Patrick Brewer and Ed Holmes. Eunice Beatty and Derek Paulsen were absent.

Planning Staff Present – Chris King, Bill Sallee, Barbara Rackers, Tom Martin, Chris Taylor, Cheryl Gallt and Denice Bullock. Other staff members in attendance were: Hillard Newman, Division of Engineering; Captain Charles Bowen and Firefighter Allen Case, Division of Fire & Emergency Services; Rochelle Boland, Department of Law; Jeff Neal, Traffic Engineering; and Bob Carpenter and Steve Harrod, Division of Building Inspection.

- II. APPROVAL OF MINUTES** – The Chair reminded the members that there was no prior Planning Commission meeting minutes to be considered at this time.

- III. POSTPONEMENTS OR WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.

- a. PLAN 2010-73F: CADENTOWN-FLAT ROCK REALTY, LLC (9/30/10)\* - located at 752 Caden Lane.  
(Council District 6) **(Foster – Roland, Inc.)**

Representation – Myke Robbins, Foster - Roland, was present representing the applicant, and requested postponement of PLAN 2010-73F to the September 23, 2010, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 8-0 (Beatty and Paulsen absent) to postpone PLAN 2010-73F to the September 23, 2010, Planning Commission meeting.

- b. DP 2010-45: PALUMBO PROPERTY, TRACT A (HOPE CENTER) (10/31/10)\* - located at 299 Loudon Avenue.  
(Council District 1) **(Carman and Associates)**

Representation – Seth Farmer, Carman and Associates, was present representing the applicant, and requested postponement of DP 2010-45 to the October 14, 2010, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 8-0 (Beatty and Paulsen absent) to postpone of DP 2010-45 to the October 14, 2010, Planning Commission meeting.

- c. DP 2010-46: L.T. RUTH PROPERTY (AMD) (10/31/10)\* - located at 1301 and 1351 Newtown Pike.  
(Council District 2) **(Vision Engineering)**

Representation – Matt Carter, Vision Engineering, was present representing the applicant, and requested postponement of DP 2010-46 to the October 14, 2010, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 8-0 (Beatty and Paulsen absent) to postpone of DP 2010-46 to the October 14, 2010, Planning Commission meeting.

- d. DP 2010-15: GESS PROPERTY, UNIT 8 (8/12/10)\* - located at 840 Hays Boulevard and 4115 Sperling Drive (a portion of).  
(Council District 7) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of DP 2010-15 to the October 14, 2010, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Mr. Brewer, and carried 8-0 (Beatty and Paulsen absent) to postpone of DP 2010-15 to the October 14, 2010, Planning Commission meeting.

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\* - Denotes date by which Commission must either approve or disapprove plan.

- e. DP 2006-65: BLACKFORD PROPERTY, PHASES 1 & 2 (AMD.) (8/12/10)\* – located at 6600 Man O' War Boulevard (a portion of).  
(Council District 12) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of DP 2006-65 to the November 11, 2010, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 8-0 (Beatty and Paulsen absent) to postpone DP 2006-65 to the November 11, 2010, Planning Commission meeting.

- f. PROPOSED AMENDMENT TO THE "BIG BOX" DESIGN GUIDELINES – GUIDELINE #10a.

Staff Comments - Mr. Sallee said that there is a related text amendment that will be presented at the September 23, 2010, meeting; and the staff requests that the Commission postpone the proposed text amendment to the Big Box Design Guidelines to that meeting. He noted that the Subdivision Committee had reviewed this item at their September 2, 2010, meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Mr. Holmes, and carried 8-0 (Beatty and Paulsen absent) to postpone the proposed text amendment to the "Big Box" Design Guidelines – Guideline #10a to the September 23, 2010, Planning Commission meeting.

- IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, September 2, 2010, at 8:30 a.m. The meeting was attended by Commission members: Mike Cravens, Mike Owens, Eunice Beatty and Derek Paulsen. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Chris Taylor, Denise Bullock, Jimmy Emmons and Traci Wade, as well as Captain Charles Bowen, Division of Fire & Emergency Services; Rochelle Boland, Law Department and Bob Carpenter, Division of Building Inspection. The Committee made recommendations on plans as noted.

*General Notes*

*The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.*

- 1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
- 2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- A. CONSENT AGENDA - NO DISCUSSION ITEMS – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

Criteria:

- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
- (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
- (3) no discussion of the item is desired by the Commission; and
- (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
- (5) the matter does not involve a waiver of the Land Subdivision Regulations.

Requests can be made to remove items from the Consent Agenda:

- (1) due to prior postponements and withdrawals,
- (2) from the Planning Commission,
- (3) from the audience, and
- (4) from Petitioners and their representatives.

At this time, The Chair requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of many of these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. PLAN 2010-82F: GESS PROPERTY, UNIT 7-A & UNIT 4-H, SECTION 2 (AMD) (10/31/10)\* - located at 4115 Sperling Drive. (Council District 7) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.

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3. Building Inspection's approval of landscaping and required street tree information.
  4. Addressing Office's approval of street names and addresses.
  5. Urban Forester's approval of tree protection area(s).
  6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
  7. Remove Unit 4-H, Section 2 from plan.
  8. Correct site statistics and plan title.
  9. Complete exaction information to the approval of the Division of Planning.
2. PLAN 2010-83F: GESS PROPERTY, UNIT 7-B (10/31/10)\* - located at 4115 Sperling Drive.  
(Council District 7) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
  2. Urban County Traffic Engineer's approval of street cross-sections and access.
  3. Building Inspection's approval of landscaping and required street tree information.
  4. Addressing Office's approval of street names and addresses.
  5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
  6. Complete exaction information to the approval of the Division of Planning.
  7. Correct cross section "F-F" to match preliminary subdivision plan.
3. PLAN 2010-84F: GESS PROPERTY, UNIT 7-C (10/31/10)\* - located at 4115 Sperling Drive.  
(Council District 7) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
  2. Urban County Traffic Engineer's approval of street cross-sections and access.
  3. Building Inspection's approval of landscaping and required street tree information.
  4. Addressing Office's approval of street names and addresses.
  5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
  6. Complete exaction information to the approval of the Division of Planning.
  7. Correct cross-section "F-F" to match preliminary subdivision plan.
  8. Complete adjacent property information about adjacent storm water basin.
4. PLAN 2010-85F: GESS PROPERTY, UNIT 11-C (10/31/10)\* - located at 4618 Sperling Drive.  
(Council District 7) **(EA Partners)**

Note: The purpose of this plan is to subdivide one lot into nineteen buildable lots.

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
  2. Urban County Traffic Engineer's approval of street cross-sections and access.
  3. Building Inspection's approval of landscaping and required street tree information.
  4. Addressing Office's approval of street names and addresses.
  5. Urban Forester's approval of tree protection area(s).
  6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
  7. Addition of the tree canopy information.
  8. Complete adjacent property information for Gess Property, Unit 6.
  9. Division of Planning approval of exaction information.
5. PLAN 2010-86F: GESS PROPERTY, UNIT 11-D (10/31/10)\* - located at 4618 Sperling Drive.  
(Council District 7) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Addition of the tree canopy information.
9. Revise the cross-section for "F-F" (sidewalk only one side).

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10. Document installation of 100' USA boundary buffer yard per Article 23A-2(f) prior to plan certification (per development plan).
11. Division of Planning approval of exaction information.
12. Correct note #10.

6. PLAN 2010-87F: SHELBOURNE PLAZA (10/31/10)\* - located at 501 – 511 South Broadway.  
(Council District 2) **(Strand Associates)**

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Denote street frontage in site statistics.
7. Denote setback (per the approved Final Development Plan).
8. Denote private utility providers per Article 5-4(e) of the Land Subdivision Regulations.
9. Addition of maintenance note per Article 5-4(g) of the Land Subdivision Regulations.
10. Delete purpose of amendment note.

7. DP 2009-66: WOLF RUN INDUSTRIAL PARK, LOTS 1, 2 & 3 (AMD) (12/10/09)\* - located at 2262, 2270, and 2278 Frankfort Court. (Council District 12) **(Barrett Partners)**

Note: The Planning Commission originally approved this plan on October 8, 2009, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Improve plan legibility by removing extraneous information from plan face and clarify plan features.
8. Denote floodplain and 25' setback.
9. Clarify area of storm and sewer easement to be relocated.
10. Correct plan title.
11. Addition of purpose of amendment note.
12. Kentucky Department of Transportation's approval of improvements and access to Old Frankfort Pike.
13. Resolve possible fill in identified floodplains.

Note: Since the Planning Commission meeting, the applicant has submitted a revised plan that redistributes the buildable area, corrects the square footage of the building and removes the southernmost entrance on Frankfort Court. The applicant is now requesting a continued discussion for this plan.

The Subdivision Committee Recommended: **Approval**, subject to the previous requirements.

8. DP 2010-51: LEXINGTON MALL PROPERTY (AMD #12) (11/14/10)\* - located at 2299, 2349 and 2401 Richmond Road. (Council District 5) **(Strand Associates)**

Note: The purpose of this amendment is to increase building height, and to add parking.

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm, sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Waste Management's approval of refuse collection.
8. Addition of written scale.
9. Correct plan title.
10. Addition of dimensions on walkways and sidewalks.
11. Addition of record plat designation in title block.
12. Complete floodplain information (source) and denote required 25' setback.
13. Denote timing of the removal of drainage easement (outlot area).
14. Review by the Technical Committee prior to certification.

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\* - Denotes date by which Commission must either approve or disapprove plan.

9. PLAN 2008-77F: EAST BRIDGEFORD LAND & DEV. CO., (KINGSTON HALL), PHASE 1, UNIT 2 (11/28/10)\* - located at 2356 Newtown Pike. (Council District 12) **(EA Partners)**

Note: The Planning Commission originally approved this plan on July 10, 2008, and reapproved it on September 10, 2009, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street names and/or addresses per the street addressing office.
5. Addition of utility and streetlight easements, as required by the utility companies, the Urban County Engineer and the Urban County Traffic Engineer.
6. Identify existing access easements to remaining tract to the east.
7. Verify exaction information.
8. Denote required buffer along the Urban Service Area Boundary (conditional zoning).
9. Correct Newtown Pike cross-section.
10. Resolve the possible need for a final development plan to be approved by the Planning Commission.
11. Resolve access easement.
12. Board of Health Department's approval of septic tank system prior to certification.

Note: The applicant now requests a one-year extension of the plan.

The Staff Recommended: **Approval** of the one-year extension, subject to the previous conditions.

In conclusion, Mr. Sallee said that the items listed on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed from consideration for discussion purposes.

Planning Commission Comments – The Chair asked if anyone in the audience or on the Commission wished to discuss any of the items listed on the Consent Agenda. Mr. Darby Turner, attorney, requested that DP 2010-51 be removed from the Consent Agenda for further discussion by the Commission. Mr. Owens requested that PLAN 2010-86F be removed from the Consent Agenda for further discussion by the Commission.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Owens and carried 8-0 (Beatty and Paulsen absent) to approve the remaining items listed on the Consent Agenda.

- B. DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for consideration of these remaining plans is as follows:

- Staff Report(s)
- Petitioner's Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner's comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

# **1. FINAL SUBDIVISION PLANS**

- a. PLAN 2010-86F: GESS PROPERTY, UNIT 11-D (10/31/10)\* - located at 4618 Sperling Drive. (Council District 7) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Addition of the tree canopy information.
9. Revise the cross-section for "F-F" (sidewalk only one side).
10. Document installation of 100' USA boundary buffer yard per Article 23A-2(f) prior to plan certification (per development plan).
11. Division of Planning approval of exaction information.
12. Correct note #10.

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Staff Presentation – Mr. Taylor directed the Commission's attention to the rendering of final record plat for this unit of the Gess Property that is located at 4618 Sperling Drive. He oriented the Commission to the surrounding street system, and noted that the subject property is near Athens-Boonsboro Road, Hays Boulevard and Marcus Trail.

Mr. Taylor said that Unit 11-D is part of the overall Gess development and it backs up to the Urban Service Area boundary. He then said that there are 21 lots in Unit 11-D and 9 of these lots are adjacent to the 100' boundary buffer.

In conclusion, Mr. Taylor stated that the Subdivision Committee had reviewed the applicant's request, and recommended approval, subject to the conditions listed on the agenda. He noted that there was a discussion concerning Article 23A of the Zoning Ordinance, and this discussion pertained to the fencing requirements along the agricultural uses across the boundary of the Urban Service Area. He then said that the development plan has a note referencing the timing for the installation of the buffer yard, and that according to that note, there is a need for this to be done prior to certification of PLAN 2010-86F: Gess Property, Unit 11-D.

Planning Commission Questions – Mr. Owens asked if an agreement has been established between the applicant and the adjacent property owners. Mr. Taylor said that the staff has not received a copy of an agreement. He then said that condition # 10 states that the applicant will need to meet the requirements of Article 23A of the Zoning Ordinance. Should an agreement be established with the adjacent property owner, the applicant might need to resubmit their request to the Planning Commission for review.

Representation – Rory Kahly, EA Partners, and Howard Cruse, Ball Homes, were present representing the applicant. Mr. Kahly said that Ball Homes and Mr. Gess are in the process of drafting an agreement for the buffer yard, and asked if Article 23 of the Zoning Ordinance overrides Article 6 of the Land Subdivision Regulations. Mr. Taylor said that it is the staff's understanding that if an agreement is reached, and is approved by the Planning Commission, it will satisfy both Article 23 of the Zoning Ordinance and Article 6 of the Land Subdivision Regulations. Mr. Kahly said that they are agreeable to the recommendations, and requested approval.

Planning Commission Questions – Mr. Owens asked if this agreement will have an effect on the remaining units along the buffer yard area. Mr. Kahly replied affirmatively, and said that the Expansion Area boundary between the Gess Property development and the agricultural area (Gess farm) extends beyond Unit 11 to as far as Unit 5. He then said that now that the development is near the Gess farm, the fence will be installed. They would like to record these lots prior to the fencing being installed, so they are hoping that the documentation of the agreement will be sufficient to move forward. He asked if the staff is looking for documentation of the installation or just documentation of the agreement. Mr. Taylor said that it is fairly clear from the development plan note that the installation of the fence must be done prior to recordation of the plat. Mr. Owens then asked if this will also pertain to the other units adjacent to the buffer yard. Mr. Taylor replied affirmatively.

Mr. Cruse said that they met with Mr. Gess, and it is their intent to build the fence, in its entirety, as quickly as possible. He then said that there should not be any problems; but if there are, they will come back to the Planning Commission. He then said that they do not want this note to prevent the recordation of this plat, considering that the other sections along this area are finished. They have no problem in building the fence; but at this time, it does pose a problem.

Mr. Taylor noted that this note was placed on the development plan, and it carried over to this plat.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Planning Commission Questions - Ms. Copeland asked if the fence installation is bondable and, if so, who enforces that bond. Mr. Taylor said that the staff is unsure whether or not the fence can be bonded, noting that Building Inspection would enforce the fencing requirements prior to approving the plat. Mr. Cruse noted that they are agreeable to have the fence bonded. Ms. Copeland said that there needs to be some type of assurance for the fence to be installed in a timely manner. She said that right now the installation of the fence is based only upon "good faith." Mr. Cruse said that they hope to maintain that good faith. Mr. Taylor said that the fence cannot be bonded, but the applicant can request a waiver from the Planning Commission.

Mr. Owens confirmed that the installation of the fence must be done prior to certification. Mr. Taylor replied affirmatively, and noted that it is to be done before the certification of this plat. Mr. Owens asked if the other two units along the buffer yard are included. Mr. Taylor said that this is for the full installation of the fence.

Mr. Kahly said that in the past, a final record plat had proposed the greenway being split into pieces. He then said that they were requested to leave the greenway as a whole to later transfer it to the LFUCG. The note in question refers to when the greenway was split into those pieces, and the note was an assurance that the fencing would be installed for that section. He said that since the greenway must be on one plat, they do not want to install only portions of the fence while the remaining development is still occurring. He then said that the note should state that the greenway plat cannot be recorded until the installation of the fence is complete. He noted again that eventually the greenway will be transferred to the LFUCG, relinquishing the developer of all responsibility.

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Ms. Copeland asked if the applicant would rather have the fence and greenway recorded together on one plat. Mr. Kahly replied affirmatively. He said that it is understandable to install the fence from Unit 11-A through Unit 11-D, but it is not feasible for the remaining development. Ms. Copeland asked if the applicant is suggesting having Units A and B together. Mr. Kahly said that Units A and B have been recorded; Unit C was approved through the Consent Agenda at today's meeting, and Unit D is the item being discussed. Mr. Kahly said that if the note were to document the installation of the fence up to what is currently being developed, that would be more fair than requiring the entire length of the site.

Mr. Cruse said that as a compromise, they would suggest to limit the installation of the fence to the lots that are adjacent to the buffer yard versus to the entire plat; otherwise, they can come back to request a waiver. Mr. Taylor said that it would be preferred to tie the fencing to the greenway, since there is no time table as to when the greenway would be transferred to the LFUCG.

Ms. Roche-Phillips asked which lots should be excluded from this requirement. Mr. Taylor said that lots 17 through 25 are adjacent to the buffer yard, and would be excluded. He said that the Commission could then approve lots 122 through 126, and lots 156 through 162 without the restrictions.

Action - A motion was made by Mr. Owens, seconded by Ms. Roche-Phillips, and carried 8-0 (Beatty and Paulsen absent) to approve PLAN 2010-86F, subject to the conditions listed on the agenda without condition #10, for lots 122 - 126 and lots 156 - 162, excluding lots 17 through 25, which are subject to all conditions.

- b. PLAN 2005-166F: CLARK PROPERTY UNIT 1-B, SEC. 2 (11/28/10)\* - located at 1551 Deer Haven Lane  
(a portion of). (Council District 12) **(EA Partners)**

Note: The Planning Commission originally approved this plan on July 14, 2005 and recorded all but eight lots of this subdivision on September 30, 2005. The Commission reapproved this plat (for Section 2) on July 13, 2006; July 12, 2007; and September 11, 2008; and granted an extension on September 10, 2009, subject to the conditions listed below.

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
3. Building Inspection's approval of landscaping.
4. Addition of utility and street light easements by the utility companies and the Urban County Traffic Engineer.
5. Urban Forester's approval of tree preservation plan.
6. Approval of street names and addresses by e911 staff.
7. Addition of exaction information.

Note: The applicant now requests another one-year extension for Section 2 of the plan.

The Staff Recommended: **Approval** of a one-year extension, subject to the previous conditions.

Staff Presentation – Ms. Gallt directed the Commission's attention to the rendering plat of the Clark Property, located at 1551 Deer Haven Lane. She oriented the Commission's attention to the surrounding street system, and said that the subject property is located near Clover Lane, Polo Club Boulevard and I-75. She noted that Polo Club Boulevard extends from Winchester Road to Todds Road.

Ms. Gallt said that the applicant is requesting a one-year extension for Section 2 of the plan. She then said that the staff is recommending approval of their request, subject to the previous conditions.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He said that they are in agreement with the staff's recommendations, and requested approval of the one-year extension.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this extension request. There was no response.

Action - A motion was made by Mr. Brewer, seconded by Mr. Cravens, and carried 8-0 (Beatty and Paulsen absent) to approve the one-year extension for PLAN 2005-166F, subject to the previous conditions.

- c. PLAN 2007-156F: CLARK PROPERTY, UNIT 1-M (11/28/10)\* - located at Polo Club Boulevard and Ice House Way.  
(Council District 12) **(EA Partners)**

Note: The Planning Commission originally approved this plan on August 9, 2007; reapproved it on September 11, 2008 and granted an extension on September 10, 2009, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree preservation plan.

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6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote: This property shall be developed in accordance with the approved final development plan.
8. Verification of exaction information by Division of Planning.

Note: The applicant now requests another one-year extension of the plan.

The Staff Recommended: **Approval** of a one-year extension, subject to the previous conditions.

Staff Presentation – Ms. Gallt directed the Commission's attention to the rendering plat of the Clark Property, located at Polo Club Boulevard and Ice House Way. She noted that this item is in the same vicinity as PLAN 2005-166F, which was previously presented at today's meeting.

Ms. Gallt said that the applicant is requesting a one-year extension for this plan. She then said that the staff is recommending approval of their request, subject to the previous conditions.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He said that they are in agreement with the staff's recommendations, and requested approval of the one-year extension.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this extension request. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Mr. Brewer, and carried 8-0 (Beatty and Paulsen absent) to approve the one-year extension for PLAN 2007-156F, subject to the previous conditions.

### 3. **DEVELOPMENT PLANS**

- a. DP 2010-44: MORNINGSIDE MARKET (10/31/10)\* - located on National Avenue at N. Ashland Avenue.  
(Council District 3) **(CRP & Associates)**

Note: This development plan requires the posting of a sign, and an affidavit of such.

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan and/or tree canopy information.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire's approval of new emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection locations.
9. Denote the required landscape buffer along the southwest property line.
10. Denote building heights.
11. Denote construction entrance.
12. Denote Final Record Plat information where applicable.
13. Addition of turn lane detail found on the Preliminary Development Plan.
14. Addition of appropriate public street improvements found on the Preliminary Development Plan.
15. Correct tree preservation information.
16. Clarify vehicular use area landscaping requirements and proposed changes to existing properties.
17. Resolve dumpster locations behind 801 National Avenue.
18. Discuss timing of public improvements and amenities per the Preliminary Development Plan adaptive reuse information.

Staff Presentation – Mr. Martin directed the Commission's attention to rendering development plan for the Morningside Market Property, located on National Avenue near North Ashland Avenue. He said that the Commission had recently approved the preliminary development plan for this area, and now the applicant has submitted the final development plan for this proposed Adaptive Reuse Project.

Mr. Martin oriented the Commission to the surrounding street system, and noted that the subject property is located between Walton Avenue and Given Avenue. He then noted that the CSX Railroad runs along the subject site and crosses Winchester Road. He said that, in reviewing the rendering, the existing buildings, the proposed building and the associated parking throughout the development are illustrated. He noted that, to the staff's understanding, at least 90 percent of this development is occupied at this time.

Mr. Martin stated that the Subdivision Committee had reviewed the applicant's request, and recommended approval, of this plan, subject to the conditions listed on the agenda. He then said that since the Subdivision Committee meeting, the staff has met with the applicant on multiple occasions to discuss what public improvements are necessary for this

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development. One of the issues with the original submittal was the lack of detail about implementing details identified on the preliminary development plan. He said that in speaking with Traffic Engineering, it was determined that those parking details were no longer needed; therefore, condition #13 could be deleted from the recommendations. With the deletion of condition #13, there was a concern as to what was appropriate with regard to public improvements and amenities (condition #18). Mr. Martin said that, as the plan was submitted, a bump-out was being shown near the crosswalk on Walton Avenue. It was determined by staff that the turn lanes on National Avenue detail was not needed.

Mr. Martin directed the Commission's attention to the previously submitted staff exhibit, and pointed out the location of these issues with regard to the public improvements. He gave a brief description as to what action may or may not be taken to resolve these concerns.

1. Painted crosswalk at Walton Avenue and National Avenue – the applicant agrees to install prior to construction of new building.
2. Painted crosswalk over railroad crossing – the applicant agrees to install prior to construction of new building.
3. Painted "No Parking" areas on Walton Avenue – the applicant agrees to paint parking stalls instead; Division of Traffic Engineering and Division of Planning are in agreement.
4. Painted crosswalk at Given Avenue and National Avenue – the applicant agrees to install prior to construction of new building.
5. Utility strip and crosswalk at Ashland Avenue and National Avenue – the applicant agrees to paint crosswalk at the time of building construction; Division of Traffic Engineering does not object.
6. Utility strip and one street tree at new parking lot entrance – the applicant does not agree.
7. Planting of 5 new street trees on North Ashland Avenue – the applicant agrees to install prior to construction of new building.

Mr. Martin said that with this being an Adaptive Reuse Project, these improvements are needed for pedestrian and traffic safety. He then said that the applicant has agreed that many of these improvements will be done prior to construction of a new building. The staff understands that there is a high amount of semi-truck traffic just outside of the applicant's project area, and this traffic usually travels along North Ashland Avenue. He said that the staff has suggested providing curbing bump-outs at the intersection of North Ashland and National Avenue, which will discourage semi trucks using North Ashland Avenue, and at the same time redirecting the traffic to use National Avenue to access Walton Avenue.

Mr. Martin directed the Commission's attention to the revised staff recommendation, and noted the following proposed changes:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan and/or tree canopy information.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire's approval of new emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection locations.
9. Denote the required landscape buffer along the southwest property line.
10. Denote building heights.
11. Denote construction entrance.
12. Denote Final Record Plat information where applicable.
- ~~13. Addition of turn lane detail found on the Preliminary Development Plan.~~
13. 44. Addition of appropriate public street improvements found on the Preliminary Development Plan.
14. 45. Correct tree preservation information.
15. 46. Clarify vehicular use area landscaping requirements and proposed changes to existing properties.
16. 47. Resolve dumpster location(s) behind 801 National Avenue.
17. 48. Discuss Denote: The timing of public improvements and amenities to National Avenue along the frontage of the new proposed building and its parking lot shall be constructed at the time of the new building, to include traffic calming at the intersection of National Avenue and N. Ashland Avenue, per the Preliminary Development Plan-adaptive reuse information.

Mr. Martin said that condition #16 (47) relates to the dumpster location, and the applicant has agreed to remove those dumpsters that were shown on the rendering. He then said that the applicant will be working with Solid Waste for a better dumpster location.

In conclusion, Mr. Martin stated that the staff is recommending approval of this request, subject to the revised recommendations.

Planning Commission Questions – The Chair asked if condition #13 should be deleted. Mr. Martin replied affirmatively.

Ms. Roche-Phillips said that at the intersection of National Avenue and Given Avenue there is an existing sidewalk along the residential portion of the street, and asked if a sidewalk will be provided to connect with the 90 degree turn in that road. Mr. Martin said that, in some areas, the sidewalk does need to be repaired; while in other areas, a sidewalk needs to be installed. He then said that the applicant has already installed some sidewalks in this area, as well as providing

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amenities to reflect their vision of an Adaptive Reuse Project. Ms. Roche-Phillips said that there are sidewalks along the northern side of National Avenue, and asked if sidewalks will be provided at the 90 degree turn connecting the pedestrian access to the crosswalk. Mr. Martin referred the question to the applicant.

Mr. Holmes asked for a brief explanation as to whether or not the CSX Railroad would need to approve the crosswalk crossing. Mr. Martin said that the crossing is within the public right-of-way, and the applicant will need to delineate the pedestrian crossing, and also seek approval from Traffic Engineering.

Ms. Copeland asked how the staff exhibit related to the revised staff recommendations. Mr. Martin said that the staff exhibit relates to previous conditions #14 & 18 (now 13 & 17) on the revised staff recommendation.

Representation – Harvey Johnson, CRP and Associates, was present representing Greg and Randy Walker (the applicants). He clarified that the submitted rendering is the preliminary development plan; and once the subject property was actually surveyed, it was determined that the square footage needed would not allow the proposed bump-outs. He said that the curb-to-curb dimension is 32 feet; and if the bump-outs and parallel parking were installed, it would decrease the width of National Avenue to only 14 feet. He then said that the lack of right-of-way would create congestion and an unsafe environment for this area. To remedy that issue, the applicant is proposing to stripe the off-street parking and the parking spaces to accommodate the existing traffic flow along National Avenue. He then said that since this is a preliminary development plan, they are requesting to delineate the right-of-way, but not physically create it.

Planning Commission Questions – Ms. Copeland asked if there will be bump-outs provided between 725 and 737 National Avenue. Mr. Johnson replied affirmatively, and said that the proposed bump-out at the intersection of National Avenue and North Ashland would discourage larger traffic movement from making a left turn. He then said that since this is a preliminary development plan, what was originally envisioned cannot be attained due to the lack of street width on the final development plan.

Ms. Roche-Phillips asked for clarification as to whether or not a sidewalk will be provided at the 90 degree turn connecting the pedestrian access to the crosswalk. Mr. Johnson said that there is an existing sidewalk along Given Avenue. Ms. Roche-Phillips said that it is good to know because creating a street crossing without a sidewalk was a concern of hers.

Mr. Brewer asked if the applicant has the flexibility to not provide the appropriate public street improvements, as noted on the revised recommendations (condition #13, 14.). Mr. Martin said that the applicant would have the flexibility with the areas that are not included in condition #17, 18. Mr. Brewer asked if the applicant will still need to provide those improvements even though it may be a safety hazard. Mr. Martin said that the rendering that was submitted is considered to be a final development plan, not a preliminary development plan. He said that the information from the preliminary development plan needs to be added to the final development plan. If there is a design or safety concern, then the Division of Traffic Engineering and the Bike and Pedestrian Planner will need to make an appropriate recommendation.

Mr. Owens asked for further clarification of the traffic restrictions at the intersection of National Avenue and North Ashland Avenue. Mr. Martin said that the Division of Traffic Engineering has not communicated any particular concern with the improvements, but they did note that they are in support of the removal of those parking details. He then said that this area is proposed to evolve with the types of uses being proposed, and the improvements are tied into that evolution. The staff believes it is important to address traffic calming and pedestrian safety. He said that there may an issue with traffic congestion, but this is why the improvements will help with traffic calming.

Ms. Roche-Phillips asked if the chain link fence has been removed. Mr. Johnson said that it was removed in 2009. Ms. Roche-Phillips said that she is familiar with this area, and the right-of-way area is tight. She then said that visual markers would be preferred versus having physical bump-outs and hard infrastructure.

Ms. Copeland said that this project is great and it is providing a great improvement to the area, but she is surprised that there is no gateway leading into this area. Mr. Greg Walker said that they are waiting on the adaptive reuse application to be approved; and once it is approved, the gateway entrances will be proposed.

Ms. Roche-Phillips said that she loves the applicant's ideas and can't wait until it comes to completion.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Planning Commission Questions – Mr. Owens asked for further clarification to the traffic safety concern for National Avenue and North Ashland Avenue. Mr. Greg Walker said that there is a high volume of traffic along National Avenue, and to have curb bump-outs in this area would make it physically impossible for two semi trucks to pass each other safely. He said that the off-street parking on both sides will limit the right-of-way, and eventually those semi-trucks will run over the bump-outs. He then said that they do not want to create a larger monster than what is already there by providing visual features to the wrong areas. Mr. Walker said that they are providing off-street parking for the tenants; but as long as there is street parking, there will be issues with traffic.

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Ms. Roche-Phillips said that the area where the two 90 degree turns are located is challenging. Mr. Walker agreed, and said that if the area near those turns is landscaped and trees are added, the semi-trucks will destroy the area by driving over it. He said that they do not want to create a similar situation in this area. Mr. Randy Walker said that they understand that the intent of bump-outs is to calm traffic, but to tie these bump-outs to 737 North Ashland Avenue will create a larger problem from the first day of construction. He then said that there will always be larger vehicles traveling this road; it will just depend on the type of business that is there. There is not enough street to provide the requested bump-outs. Mr. Johnson said that this request is a preliminary development plan, which means the design is conceptual. When they had the area surveyed, it was determined that what was being shown on the preliminary development plan was not feasible. He then said that they have spoken with the Division of Traffic Engineering, and it was concluded that additional signage should be provided to denote the speed limit and that this is a congested area.

Jeff Neal, Division of Traffic Engineering, was present. He said that he has not reviewed this area in detail, but there was a discussion concerning the traffic calming, especially along North Ashland Avenue. He indicated that he was under the impression that there would be striping, not additional greenspace. He asked what would happen to the remaining area when the semi-trucks are still traveling this area if everything is tied to 737 National Avenue. He noted that the street should not be decreased in size from what is already there.

Mr. Owens asked if normal traffic is having a hard time moving through the intersection of North Ashland Avenue and National Avenue. Mr. Neal said that the applicant is given a lot of flexibility with their design on a preliminary development plan, and the intersections are not closely reviewed at the time of a zone change. He then said that when a final development plan is submitted, those intersections are reviewed more closely; but in this case, the intersection should be left open since this area is mainly industrial and there is ongoing movement of semi truck traffic. The curb line could be altered to match where the semi trucks are moving.

Mr. Cravens asked how condition #18 could be resolved since this is a preliminary development plan. Mr. Martin said that this is actually a final development plan, and it was the differences between the preliminary development plan and the final development plan that raised these issues. Mr. Cravens then asked if the applicant has certain privileges since this is an adaptive reuse project. Mr. Martin said that they are allowed more flexibility with the type of uses and a considerable reduction in the parking requirements. He said that there are criteria that the applicant must meet. The criteria and the development of the area relate to the adaptive reuse project. He added that a preliminary development plan was conceptual and there would be new construction; but this area is largely built, and the need for specific information is more important. He said that with this being an adaptive reuse project, certain items should be specific.

Mr. Cravens said that the preliminary development plan is what sold the Commission on this Adaptive Reuse Project, but once the final development plan was submitted, the entire design had changed. He then said that he understands the reasoning behind the redesign. Mr. Martin said that the concern is that larger trucks should be discouraged from taking North Ashland Avenue.

Ms. Roche-Phillips said that at the corner of North Ashland Avenue and Aurora Avenue, there is a cabinet shop whose traffic will need to be routed onto North Ashland Avenue. She then said that it should be up to the developer and the Division of Traffic Engineering to resolve this issue prior to recording the plat. Mr. Martin noted that this is a development plan; therefore, a plat would not be recorded.

Mr. Holmes said that based upon the testimony given, he agrees with the developer. He then said that with an Adaptive Reuse Project there needs to be some flexibility. This area has very intense uses, and trying to lower that intensity will create some conflict with the permitted land uses. He said that it seems that the developer and the Division of Traffic Engineering are close to a resolution; therefore, he believed there should not be any restrictions added. Mr. Martin said that there should be appropriate traffic calming improvements installed.

Mr. Brewer asked for guidance from legal counsel regarding the appropriate traffic calming for condition #17. Ms. Boland, Law Department, said that the Planning Commission could either: 1) omit the recommendations based upon the testimony given at today's hearing; or 2) state that since these improvements are tied to the construction of any building, even though nothing will be recorded, it will trigger a resolution. She then said that the Planning Commission could also note that those improvements should be resolved to the satisfaction of the Division of Traffic Engineering prior to the issuance of a building permit. This would allow the Traffic Engineering staff to review the developer's design, and either approve or disapprove their alterations.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Owens, and carried 8-0 (Beatty and Paulsen absent) to approve DP 2010-44, subject to the revised conditions provided by the staff, deleting condition #13, which reads: "Addition of turn lane detail found on the Preliminary Development Plan;" and changing the new condition #17 to read: "Denote the timing of public improvements and amenities to National Avenue along the frontage of the new proposed building to be resolved to the satisfaction of Traffic Engineering prior to the issuance of a building permit."

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- b. DP 2010-8: PROVIDENCE PLACE, TRACT 3, LOTS 4 & 5 (12/23/10)\* - located at 2200 Newtown Pike.  
(Council District 12) **(Vision Engineering)**

Note: This development plan requires the posting of a sign, and an affidavit of such. The Planning Commission originally approved this plan on April 22, 2010, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan and/or tree canopy information.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Denote Final Record Plat designation for lots 4 & 5.
10. Denote the sanitary sewer temporary construction easement on lot 4.
11. Resolve the minimum off-street parking required on lot 5.
12. Resolve proposed access easement location and turning radius proposed (for trucks).
13. Denote: Mary Fay Place shall be completed prior to the issuance of a Certificate of Occupancy.
14. Resolve boundary fencing and/or screening along the northern property lines of lots 4 and 5 as discussed at the Planning Commission's April 22, 2010, meeting.

Note: Since the Planning Commission meeting, the applicant has revised their proposed development plan, changing the status of Lot 4 from a Final Development Plan to the original Preliminary Development Plan. The applicant is now requesting a continued discussion to review the plan solely as a Final Development Plan for Lot 5.

The Subdivision Committee Recommended: **Approval**, subject to the following revised requirements:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan and/or tree canopy information.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Denote Final Record Plat designation for lots 4 & 5. Delete note #15.
- ~~10. Denote the sanitary sewer temporary construction easement on lot 4.~~
- ~~11. Resolve the minimum off-street parking required on lot 5.~~
10. ~~12. Resolve~~ Discuss the proposed access easement location and turning radius proposed (for trucks).
13. Denote: Mary Fay Place shall be completed prior to the issuance of a Certificate of Occupancy.
11. Denote exactions due at the time of building permits (Note #14).
12. ~~14. Resolve~~ boundary fencing and/or screening along the northern property lines of ~~lots 4 and Lot~~ 5 as discussed at the Planning Commission's April 22, 2010, meeting.

Staff Presentation – Mr. Martin directed the Commission's attention to the rendered development plan for the Providence Place Property, located at 2200 Newtown Pike. He oriented the Commission to the surrounding street system, and said that the subject property is located on Newtown Pike, and I-75. He then said that in the general vicinity, there are several different uses that include the Cracker Barrel Restaurant and a motel.

Mr. Martin stated that the Planning Commission originally approved this plan on April 22, 2010; and since that time, the applicant has revised their proposed development. He said that the change to this development is the status of Lot 4 from a final development plan to the original preliminary development plan, noting that this change is returning Lots 3 and 4 to their status as a preliminary development plan. He said that these lots would come back to the Planning Commission once a final development plan is proposed for that property.

Mr. Martin then stated that the applicant is requesting a continued discussion to review the plan solely as a final development plan for Lot 5. He said that Lot 5 is still being proposed for a 106,000 square foot, 2-story, manufacturing facility with associated parking. He then said that with the removal of Lot 4, it will omit the access to Mary Faye Place and the connection between Lots 3 and 4. The revised plan now shows the main access being provided to Lot 5 off Providence Place Parkway. The applicant is proposing to move the access directly across from Hackney Place. He said the staff believes that changing the location of this access will provide a safer entrance to the site. He noted that the access will still lead to the new regional sewer pump station to be located just off of the subject property near the Urban Service Area boundary.

In conclusion, Mr. Martin said that the Subdivision Committee reviewed the applicant's request, and recommended approval, subject to the following revised requirements, as submitted.

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Mr. Martin noted that the applicant and the adjoining property owner to the north have resolved the boundary issues that were discussed at the Planning Commission's April 22, 2010, meeting.

Mr. Martin directed the Commission's attention to the Revised EAMP Compliance Report that was submitted by the staff, and noted that the report only reflects Lot 5. He said that with the orientation of the building along the boulevard, and with the parking being mainly in the rear, the proposed development is in compliance with the Community Design Element of the EAMP. He then said that there is a grade change to the rear of the property, and the applicant will incorporate the natural topography of the area into the design of the site. Therefore, the development plan is in compliance with the Community Design Element, as well. He said that, although there are no designated greenway areas, there is a Scenic Resource Area overlay crossing over Lot 6. This area has been designated as a Rural Scenic Road.

Mr. Martin stated that there are three Infrastructure Elements in the EAMP area adjacent to, but not constructed on the subject site. He said that these include the Regional Pump Station to the rear, the future sanitary sewer trunk line to the south of the property, and the Providence Parkway road improvements, which have been constructed and dedicated.

Mr. Martin said that with the original approval, there were issues with the exaction program; however, since that time, these have been resolved by the land owners in the area. He said that the applicant must document the exactions due at the time of building permits (Note #14). He noted that the exactions will be used for sanitary sewer transmission and treatment.

In conclusion, Mr. Martin stated that since some of the elements of the EAMP have not been completed due to circumstance beyond the applicant's control, the staff cannot say this request is fully compliant. However, the Final Development Plan for Providence Place, Tract 3, Lot 5 is in compliance with the Future Land Use and Community Design Elements of the Expansion Area Master Plan, and is in substantial compliance with the Infrastructure Element for the following reasons:

1. The use and proposed development meet the definition of the Economic Development land use category in the EAMP and the uses allowed in the ED zone.
2. Many principles of the EAMP, including the orientation of the buildings and parking, and use of the natural topography, have been incorporated into the design of this ED development. The development plan is therefore in compliance with the Community Design element.
3. Although sanitary sewer service does not currently exist to the subject property, and the planned regional sanitary sewer pump station to the northwest of the subject property is in its design phase, as recommended by the EAMP, even though it has not yet been constructed. Sanitary Sewer Service is available to this property from existing lines to the south.

Representation – Matt Carter, Vision Engineering, was present representing the applicant. He submitted the photo of the sign, and an affidavit of its posting to the staff. He said that they are in agreement with the staff's recommendations, and requested approval.

Staff Comment – Mr. Martin noted that the new condition #10 "~~Resolve~~ Discuss the proposed access easement location and turning radius proposed (for trucks)." has been resolved and can be deleted from the recommendations.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Mr. Brewer, and carried 8-0 (Beatty and Paulsen absent) to approve DP 2010-8, subject to the conditions listed on the Revised Staff Report, deleting condition number 10 (the discussion item), and finding that DP 2010-8 is in conformance with the requirements for the EAMP, for the reasons provided by the staff.

- c. DP 2010-51: LEXINGTON MALL PROPERTY (AMD #12) (11/14/10)\* - located at 2299, 2349 and 2401 Richmond Road. (Council District 5) **(Strand Associates)**

Note: The purpose of this amendment is to increase building height, and to add parking.

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm, sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Waste Management's approval of refuse collection.
8. Addition of written scale.
9. Correct plan title.

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10. Addition of dimensions on walkways and sidewalks.
11. Addition of record plat designation in title block.
12. Complete floodplain information (source) and denote required 25' setback.
13. Denote timing of the removal of drainage easement (outlot area).
14. Review by the Technical Committee prior to certification.

Staff Presentation – Mr. Sallee directed the Commission's attention to the Lexington Mall Property that is located at 2299, 2349 and 2401 Richmond Road. He distributed a letter to the Planning Commission, and noted that the staff had received this letter from the Fayette Alliance, dated September 8, 2010. He directed the Commission's attention to the rendering, and identified the surrounding street system. He said that the subject property is located on the northwest quadrant of the interchange at New Circle Road and Richmond Road. He then said that to the north of the subject property is the Freedom Dodge Car Dealership; to the west is the Idle Hour Subdivision and Idle Hour Park; and to the east are two outlots that do not have the same owner as the mall property. These outlots are the Central Bank and the former BP Gas Station. He noted that there is a signalized intersection on Richmond Road next to the former gas station, as well as another signalized intersection near the Applebee's Restaurant. The traffic signal at the Applebee's Restaurant is also used by the Kentucky American Water Company property across Richmond Road.

Mr. Sallee presented a photograph of the subject property and noted that this was a view of the entire Lexington Mall Property. He identified New Circle Road, Richmond Road, and Woodhill Drive, and noted the location of the signalized intersection at Woodhill Drive and New Circle Road, as well as the location of the nearby reservoir. He then pointed out the location of the Lexington Mall structure, and the location of the existing outlots along Richmond Road. He said that the building on subject property itself is vacant, but the outlots along Richmond Road are occupied, with the exception of the gas station. He then said that Home Depot and the Perkins Restaurant are also located on the subject property, but they are not part of this development plan.

Mr. Sallee said that the development plan proposes to keep the former Dillard's building and demolish most of the remaining mall. He then said that there is associated parking lot surrounding the site, as well as parking on the Home Depot lot.

Mr. Sallee stated that the development plan is proposing to keep half of the former Lexington Mall buildings and the outlots along Richmond Road. He said that the purpose of this amendment is to increase the building height of Lexington Mall, to add associated parking, redesign the car wash near the intersection of Woodhill Drive and New Circle Road and provide an additional outlot at the intersection on Richmond Road next to the Applebee's Restaurant. He then stated that, as the mall exists today, the existing square footage is much larger than what is being proposed by the applicant as a church. He noted that the subject site itself is zoned B-6P, and this zone does allow a church as a permitted use. He then said that behind the subject property there is also an R-4 zone, which is near where the car wash is located, as well as a B-3 zone where the car dealership is located.

Mr. Sallee said that the portion of the Lexington Mall Property that is being demolished is too reconstructed as a two-story, 45,000 square-foot sanctuary with a balcony. The former Dillard's building will be retained, which is to be a two-story structure with about 145,000 square feet of space. He noted that the remaining 125,000 square feet of building(s) shown on the development plan are not to be changed.

Mr. Sallee stated that the Subdivision Committee reviewed the proposed development plan at their September 2, 2010, meeting. Since that time, the staff has received a revised submission, which now shows the floodplain information along Richmond Road. He said that the DFIRM map was updated in 2008, and the floodplain expands from the corner of Richmond Road and New Circle Road down to the Applebee's Restaurant. He then said that the 25-foot floodplain setback has also been noted on the development plan. The applicant has submitted the appropriate application and studies to FEMA to document the floodplain area. He said that there is a note on the development plan that prohibits any construction on this site until a Letter of Map Revision has been approved by FEMA.

Mr. Sallee then stated that there will be additional non-impervious surface area added to the development site, such as traffic aisles, and landscaping areas with trees. He said that there will also be landscaping provided to separate the Idle Hour Park from the remainder of this property. He then said that there will be additional landscaping provided in front of the proposed sanctuary and behind the former Dillard's building. He noted that according to this plan, there will be a water feature added that will run from the front of the sanctuary to the pond on Richmond Road.

Mr. Sallee said that the staff reviewed the revised submission, and a number of the original conditions have been addressed. He noted that conditions #1 -7 are standard LFUCG signoffs needed for almost all development plans:

1. Urban County Engineer's acceptance of drainage, storm, sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Waste Management's approval of refuse collection.

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Mr. Sallee then said that conditions #8 - 13 are "cleanup" conditions that were originally needed on the development plan. He said that the applicant has recently addressed these conditions and the staff can recommend that these items be removed:

8. Addition of written scale.
9. Correct plan title.
10. Addition of dimensions on walkways and sidewalks.
11. Addition of record plat designation in title block.
12. Complete floodplain information (source) and denote required 25' setback.
13. Denote timing of the removal of drainage easement (outlot area).

Mr. Sallee said that condition #14 relates to this item being filed late, which requires the Technical Committee to review the development plan. He said that the staff did take this development plan to the Committee as a staff item, but there was no formal action taken. This gave the required utility companies a chance to review the proposed site redevelopment and identify any concerns. The applicant had requested that this item be removed from the Technical Committee review since they had unofficially reviewed the proposal previously. He said that the staff is comfortable with condition #14 (Review by the Technical Committee prior to certification) being removed from the list of conditions.

In conclusion, Mr. Sallee noted that the Subdivision Committee did recommend approval of the applicant's proposal; and the staff is also recommending approval, subject to conditions #1 - 7, removing conditions #8 - 14.

Petitioner's Presentation – Darby Turner, attorney; along with Craig Avery, Southland Christian Church and Sara Tuttle and Mike Woolum, Strand Associates, was present on behalf of the applicant. He noted that Mike Scanlon and Bill Hillard (Thomas & King) and Bruce Simpson (attorney) were present on behalf of Applebee's Restaurant. He said that he appreciated the staff's effort in accommodating their contractual needs with this very aggressive review schedule. He said that they also appreciated the Planning Commission and the Technical Committee taking time to hear their proposal. Mr. Turner said that they have spoken with all the Divisions within the LFUCG that would be directly involved in the approval of this development plan.

Mr. Turner said that there is a minor amendment to what was previously submitted to the staff, and this change deals with the lack of curbing near the Applebee's Restaurant between the proposed church parking lot and the restaurant. He then said that currently there is a median between the restaurant and the pond, which allows direct vehicular access to the parking area. They are proposing to add a landscaped median to delete the direct access to the mall parking, which would then divert traffic either to the left or right. He said that this change will accommodate the parking needs of Applebee's Restaurant and the church.

In conclusion, Mr. Turner said that they have consulted with the members of the Technical Committee, as well as the staff, and they believe condition #14 can be removed. He then said that they are in agreement with the staff's revised recommendations, deleting conditions #8 – 14. He requested approval of the development plan, to include the minor change per Applebee's Restaurant, as previously discussed.

Planning Commission Questions – Mr. Holmes asked if the Applebee's Restaurant would be permitted to use the church's parking area. Mr. Turner replied affirmatively, and noted that this parking arrangement is per their lease agreement. He said that Applebee's Restaurant was concerned with providing good access into their property, as well as retaining the common parking area. He then said that the applicant agrees with their concerns and the church wants to help keep this area vibrant and exciting.

Mr. Copeland asked what the use will be at 2375 Richmond Road (the new outlot). Mr. Turner said that that use is unknown at this time. He said that if there is a proposal for the outlot, the use will be subject to the approval of the church. Ms. Copeland asked if this building will be leased out. Mr. Turner replied that it may. He said that they are unsure what will happen with this outlot. Ms. Copeland said that the Planning Commission is being requested to approve this outlot with no pedestrian access to the parking area, and the proposed curbing affects this lot as well. Mr. Turner said that the pedestrian access along Richmond Road is still in the process of being designed, and noted that there is a pedestrian walk from the church to the pond area. This walkway will provide the needed pedestrian access to that outlot.

Ms. Copeland then asked about the future use of the car wash lot. Mr. Turner said that at this time the use is unknown. He said that the car wash is an open building (no walls), and it is being shown on the development plan as a buildable area. Ms. Copeland said that on this one development plan, there are three separate plans being proposed. She said that the Planning Commission is being requested to approve not only the Lexington Mall site, but the two outlots on the property. Mr. Turner replied affirmatively, and noted that the car wash is built. Depending on FEMA's response to their Letter of Map Revision request, the outlot may or may not be proposed. The floodplain area would need to be reconfigured, but at this time nothing can be constructed until they receive approval from FEMA for the LOMR.

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\* - Denotes date by which Commission must either approve or disapprove plan.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. Bruce Simpson, attorney, was present on behalf of Thomas & King. He said that they are agreeable with the revised plan submitted to staff, as well as the minor change to the parking configuration and landscape aisles shown by the applicant.

Planning Commission Questions – Mr. Owens asked if the staff is agreeable with the suggestion made by Mr. Turner. Mr. Sallee said that the staff has no objection to that change, and noted that condition #2 will ensure that Traffic Engineering will have ample time to review those changes prior to certification of the plan.

Mr. Owens said that he is reluctant to delete Technical Committee signoff from a plan that was filed late; but the applicant has worked diligently to communicate with all the recommended divisions, as well as addressing most of the concerns listed on the original recommendation.

Action - A motion was made by Mr. Owens to approve DP 2010-8, subject to the conditions listed by staff, deleting conditions # 8 - 14.

Discussion - Mr. Simpson requested that the access changes previously discussed be formally incorporated into the motion, per Applebee's request made to the applicant. Ms. Richardson said that that change would be administered through Traffic Engineering. Mr. King recommended that the Planning Commission recognize that this revision to the development plan was clearly indicated at today's meeting.

Amendment to Motion - Mr. Owens amended his motion to approve DP 2010-8, subject to the conditions listed by staff, deleting conditions #8 - 14; and recognizing that a revised development plan regarding the parking lot near Applebee's Restaurant had been indicated at today's meeting.

The motion was seconded by Mr. Cravens, and carried 8-0 (Beatty and Paulsen absent).

- C. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Mr. Owens, seconded by Ms. Roche-Phillips, and carried 8-0 (Beatty and Paulsen absent) to approve the release and call of bonds as detailed in the memorandum dated September 9, 2010, from Ron St. Clair, Division of Engineering.

- VI. **COMMISSION ITEMS** - The Chairman will announce that any item a Commission member would like to present will be heard at this time.

- A. **CLOSING COMMENTS** - Ms. Richardson said that Lexington, Kentucky was listed recently in Money Magazine as one of the best places for retirement.

- VII. **STAFF ITEMS** – The Chairman will announce that any item a Staff member would like to present will be heard at this time.

- A. **UPCOMING WORK SESSION** – Mr. King reminded the Commission of the upcoming work session scheduled for September 16, 2010. He said that there would be presentations on BCTC Campus Master Plan, Secure by Design, and three text amendments, as well as a report on the Survey on the Subdivision and Development Plan process.

- VII. **AUDIENCE ITEMS** – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission's formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

VIII. **NEXT MEETING DATES** -

Work Session, Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers .....	September 16, 2010
<b>Zoning Items Public Hearing</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers .....	<b>September 23, 2010</b>
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) .....	September 29, 2010
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .....	October 7, 2010
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .....	October 7, 2010
<b>Subdivision Items Public Meeting</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers .....	<b>October 14, 2010</b>

- IX. **ADJOURNMENT** - There being no further business, a motion was made to adjourn the meeting at 3:30 p.m.

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Carolyn Richardson, Chair

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Mike Owens, Secretary